

## **First Set - FINDING OF EMERGENCY**

These regulations are being adopted on an emergency basis for the immediate preservation of the public peace, health and safety, and general welfare, within the meaning of Government Code Section 11346.1(b).

## **DESCRIPTION OF THE FACTS WHICH CONSTITUTE THE EMERGENCY**

Low wages for direct care staff have led to difficulties in recruiting and retaining direct care staff who provide critically needed services to developmentally disabled consumers. The wage and benefit increase granted by the legislature in the 2000-01 Budget Act will decrease the movement of workers out of the respite care industry to other easier jobs. This increase needs to be passed on to these workers as soon as possible in order to stem this flow. Therefore, this filing needs to be approved on an emergency basis.

In recent years, families of developmentally disabled consumers have increasingly turned to the use of respite services in order to keep their families together and to keep the consumers living at home when possible. In fiscal year 1999/00, regional centers spent over \$51 million dollars on respite services for individual respite workers, family members and respite facilities, amounting to approximately 6.5 million hours of service. Another \$18 million dollars was spent on respite services from respite services agencies.

To improve working conditions for direct care staff and to reduce direct care staff turnover, thereby improving the overall quality of service provided by all service providers, the Budget Act of 2000/01 contained funds to provide a 10% increase in salaries and wages for most direct service providers, as well as a 5% increase in administrative overhead costs for most agencies. (See Budget Item 4300-101-0001)

Reimbursement rates for most services are set by the Department of Developmental Services- (Department) Community Rates Section, and rate letters were sent out in December, 2000, increasing rates retroactively to July, 2000 as required by the Budget Act. However, rates for individual respite workers and family members providing respite services are set by regulation in Title 17, California Code of Regulations (CCR), Sections 57310 and 57332, et seq. Also, rates for supplemental staff to provide services to non-mobile consumers in day programs are set in Title 17, CCR. The legislature also provided funds to increase these rates by 10%.

## **AUTHORITY AND REFERENCE**

Authority : Sections 4691 and 4691.5, Welfare and Institutions Code.

Reference : Sections 4691 and 4691.5, Welfare and Institutions Code; Budget Act of 2000-01, Item 4300-101-0001.

## **INFORMATIVE DIGEST**

### Title 17, California Code of Regulations (CCR), Division 2, Chapter 3: Community Services, SubChapter 7: Nonresidential Service, Vendor Rate-Setting Provisions

The Department proposes to improve the availability and quality of care by increasing the wages and benefits for respite care workers and staff who provide supplemental services for non-mobile consumers in day programs.

#### **Section 57310 (b)(3) - Method of Reimbursement for Voucher Services**

The Department proposes to increase the maximum reimbursement rate for family members providing respite services to \$8.57 per hour, including benefits, effective July 1, 2000. The previous rate of \$7.79 per hour included a base wage of \$6.57 per hour and a benefit allowance of 18.5 %, or \$1.21 per hour. The 18.5% benefit factor was taken from the average percentage of benefits being paid by day programs, based on actual 1989/90 cost statements. In this proposal, the Department would increase the base rate by 10%, to \$7.22 per hour, and apply the same benefit factor of 18.5% for a total wage and benefit rate of \$8.57 per hour. As required by the Budget Act of 2000-01, the rate would become effective retroactively to July 1, 2000.

#### **Section 57332 (c)(3)(A) - Maximum Rates for Reimbursement for Non-Residential Services - In-Home Respite Worker**

The Department proposes to increase the maximum reimbursement rate for in-home respite workers to \$8.57 per hour, including benefits, effective July 1, 2000. The previous rate of \$7.79 per hour included a base wage of \$6.57 per hour and a benefit allowance of 18.5 %, or \$1.21 per hour. The 18.5% benefit factor was taken from the average percentage of benefits being paid by day programs, based on actual 1989/90 cost statements. In this proposal, the Department would increase the base rate by 10%, to \$7.22 per hour, and apply the same benefit factor of 18.5% for a total wage and benefit rate of \$8.57 per hour. As required by the Budget Act of 2000-01, the rate would become effective retroactively to July 1, 2000.

#### **57332 (c)(9)(A)(2)(a) - Maximum Rates for Reimbursement for Non-Residential Services - Respite Facility**

The Department proposes to increase the maximum reimbursement rate for in-home respite workers to \$8.57 per hour, including benefits, effective July 1, 2000. The previous rate of \$7.79 per hour included a base wage of \$6.57 per hour and a benefit allowance of 18.5 %, or \$1.21 per hour. The 18.5% benefit factor was taken from the average percentage of benefits being paid by day programs, based on actual 1989/90 cost statements. In this proposal, the Department would increase the base rate by

10%, to \$7.22 per hour, and apply the same benefit factor of 18.5% for a total wage and benefit rate of \$8.57 per hour. As required by the Budget Act of 2000-01, the rate would become effective retroactive to July 1, 2000.

#### Section 57530(b) - Non-Mobile Supplemental Rate

The Department proposes to increase the reimbursement rate for staff who provide assistance to non-mobile consumers in community-based day programs. The previous rate was based on the minimum wage plus 20% for benefits. The Department proposes to increase the minimum wage portion by 10%, as required by the Budget Act of 2000, and then apply the 20% benefit factor to that amount. Per the Budget Act, the rate would become effective retroactive to July 1, 2000. To address future increases in the minimum wage, the Department proposes to specify the rate of \$.76 per consumer per hour, or one-tenth of the prevailing minimum wage, as mandated by State and Federal laws, plus fringe benefits at 20% of the prevailing minimum wage, whichever is greater.

#### Section 57530(b)(1) - Non-Mobile Supplemental Rate

The Department proposes to delete the language specifying how the rate is to be calculated. This language is not longer required because the rate is specified in (b) above.

### **SMALL BUSINESS DETERMINATION**

The Department has determined that the proposed regulations will affect small business. The regulations have, therefore, been drafted in plain English.

### **LOCAL MANDATE AND FISCAL IMPACT DETERMINATIONS**

The Department has determined that the proposed regulatory action does not impose: 1) a mandate on local agencies or school districts, 2) costs to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630, or 3) other nondiscretionary costs or savings imposed on local agencies. The Department has determined that the proposed regulatory action will cost approximately \$5,120,000 in the current fiscal year, but that the Department will be able to absorb these costs within its existing budget and resources. The Department has determined that the proposed regulatory action will cost approximately \$364,000 in federal funding to the state in the current fiscal year.

### **ECONOMIC IMPACT AND BUSINESS ASSESSMENT**

The proposed action will not: a) create new jobs within the State of California, b) help in the creation of new businesses within the State of California, nor c) cause the expansion of businesses currently doing business within the State of California. The

Department has determined that the proposed regulations will not have: a) a significant adverse economic impact on business including the ability of California businesses to compete with businesses in other states, b) a significant potential cost impact on private persons or directly affected businesses, nor c) a significant effect on housing costs.